

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

Case No. 0:24-cv-61939-LEIBOWITZ

PHILIP SERPE,

Plaintiff,

v.

FEDERAL TRADE COMMISSION; AND
HORSERACING INTEGRITY AND
SAFETY AUTHORITY, INC.,

Defendants.

**DEFENDANTS' JOINT NOTICE AND MOTION TO VACATE ORDER
DIRECTING SUPPLEMENTAL BRIEFING OR, IN THE ALTERNATIVE,
TO EXTEND SUPPLEMENTAL BRIEFING DEADLINE**

The Federal Trade Commission and Horseracing Integrity and Safety Authority, Inc., respectfully inform the Court that the Horseracing Integrity & Welfare Unit has notified Plaintiff that it will not seek a monetary fine against him for the alleged anti-doping rule violation at issue in this case. *See* Exhibit A. That moots Plaintiff's Seventh Amendment claim and removes any risk of cognizable harm with respect to it. *See* Tr. of Hearing on Plf's Mot. for Pre. Inj. 13:7-8 (April 10, 2025) ("Tr.") ("[I]t's a \$25,000 fine that violates the Seventh Amendment, if the Seventh Amendment applies."); Plf's Reply Br. 24 n.20, ECF No. 29 ("[I]f the Authority only sought to enforce equitable remedies, [that] would render the constitutional dimensions of the FTC subsequent proceeding irrelevant . . . and HISA would not be unconstitutional."); *see also* Tr. 14:5-12 (Court: "[I]f they wrote you two weeks from today and said, 'You know, for your arbitration proceeding, civil monetary penalties, fines, they're off the table[,] . . . there couldn't possibly be a Seventh Amendment violation; right?"). The Court should dispose of Plaintiff's Seventh

Amendment claim, and Plaintiff's motion for a preliminary injunction relating to that claim, accordingly.

In light of this development, Defendants respectfully request that the Court vacate its order directing the parties to "supplement the record with their respective positions on [the Court's] immunity question," ECF No. 40; *see also* Tr. 48:12-15 (directing supplemental briefing), as there is no longer any need to litigate this issue. Defendants alternatively request that the April 25 deadline to file supplemental briefs be extended and continued to a later date. *See* Tr. 46:22-23 (explaining deadline may be extended "for good cause").

Pursuant to Local Rule 7.1(a)(2), counsel for the Defendants conferred with counsel for the Plaintiff regarding the relief requested. Plaintiff opposes the requested relief.

Dated: April 24, 2025

Respectfully submitted,

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Acting Assistant Attorney General

LESLEY FARBY
Deputy Branch Director

/s/ Taylor Pitz
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EXHIBIT A



April 23, 2025

SENT VIA EMAIL

Bradford J. Beilly, Esq.
1144 South East 3rd Avenue
Fort Lauderdale, FL 33316
(954) 763-7000
brad@beillylaw.com

Re: EAD Charge of Alleged Anti-Doping Rule Violation
Covered Person: Philip Serpe
Covered Horse: Fast Kimmie
Sample #U100981554

Dear Brad:

Given the fact that the brief on behalf of your client, Philip Serpe, is due on May 16, 2025, before the Horseracing Integrity & Welfare Unit's (HIWU) brief, we wanted to notify you that HIWU will not be seeking a fine to be imposed against Mr. Serpe pursuant to ADMC Program Rule 3323 in connection with the above-referenced action.

Sincerely,

A handwritten signature in black ink, reading 'Allison Farrell'. The signature is written in a cursive, flowing style.

Allison J. Farrell
HIWU Senior Litigation Counsel

cc: Sam Reinhardt, HISA